IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1167 OF 2004

Shri Madhukar Baburao Kale ...Petitioner
V/s.
Shri Dattatraya Shamrao Jankar & Ors. ...Respondents

Ms.Prabha Bhadhade i/b. Mr.P.R. Arjunwadkar for the Petitioner.
Mr.S.V. Kotwal for Respondent Nos.2 to 6, 8, 9, 10, 12 and 14.
Mr.Y.M. Nakhawa, Addl.P.P. for State-Respondent No.17.

CORAM : V.M. KANADE, J.

DATED : AUGUST 6, 2007

P.C. :-

. Heard the learned Counsel for the petitioner and the learned Counsel for the respondents.

2. The petitioner is challenging the order passed by the IIIrd Additional Sessions Judge, Solapur, whereby his application for issuance of witness summons to the Medical Officer was rejected by the Sessions Judge.

3. It is submitted that the said witness Dr.Sonal Saraf was material to the case and that since the witness was admitted in hospital at Solapur on the earlier date, the petitioner was unable to secure her presence. The Sessions Judge, however, rejected the said application on the ground that the witness had

undergone delivery and on account of the said witness failing to appear in the court on earlier occasions.

4. In my view, the trial Court ought to have granted one more date to the prosecution in order to enable him to examine the said witness. In the application it is mentioned that on the earlier date, the said witness could not be produced by the prosecution since she was admitted in the hospital at Solapur. The said order therefore, in my view, is liable to be quashed and set aside.

5. The petition, therefore, is allowed and the impugned order dated 20th March, 2004 is set aside. The Sessions Court may issue a fresh witness summons to the said witness. It is, however, clarified that if on the next date, the said witness does not appear in the court, then further adjournments may not be granted by the court. The trial Court is directed to dispose of the criminal case, as expeditiously as possible.

. Writ Petition is made absolute in the above terms.

(V.M. KANADE, J.)